

CONTRACT #2
RFS # 331.03-097-05

Department of Education

VENDOR:
Educational Testing Service
(ETS)



STATE OF TENNESSEE
DEPARTMENT OF EDUCATION
6th FLOOR, ANDREW JOHNSON TOWER
710 JAMES ROBERTSON PARKWAY
NASHVILLE, TN 37243-0375

PHIL BREDESEN
GOVERNOR

LANA C. SEIVERS, Ed.D.
COMMISSIONER

TO: Dave Goetz, Commissioner,
Department of Finance and Administration

FROM: Lana C. Seivers, Commissioner *lcs*

DATE: February 2, 2006

SUBJECT: Fiscal Review of Non-Competitive Amendment Request

RECEIVED

FEB 02 2006

FISCAL REVIEW

Please find the enclosed Request for Non-Competitive Amendment and the supporting documentation for review by the State Fiscal Review Committee.

The Department is requesting a Non-Competitive Amendment to the Educational Testing Services (ETS) contract (FA-05-16334-00). This amendment will add an additional \$429,407.00 to allow the Department to purchase the following:

- additional Comprehensive English Language Learning Assessment (CELLA) test booklets for the Tennessee Comprehensive Assessment Program (TCAP) Spring 2006 administration.
- scanning, scoring, and reporting of test results for the tests administered during Spring 2006.
- facilitation of a standard setting to establish final cut scores for all proficiency levels (beginner, high beginner, intermediate, high intermediate, and advanced) to document progress of English Language Learners (ELL) from year to year, as required under the No Child Left Behind Act of 2001 (NCLB).

The contract term would be amended to extend the end date from April 9, 2006 to September 30, 2006 to allow the Contractor time to provide all necessary State and Federal required data.

The Department is required by Title I and Title III of NCLB to annually assess English Language Learners (ELL) students in Reading/Language, Math, and English Language Proficiency. To meet this requirement for ELL students, Tennessee's approved accountability workbook (USDOE action plan with our state) requires a specially designed test in Reading/Language Arts. The Department entered into a consortium with four other states, ETS, and AccountabilityWorks, and received a federal grant to develop a specially designed assessment to determine English language proficiency for ELL students. The assessment that the consortium developed was the CELLA. The Department has also committed to the U.S. Department of Education that it would use the same assessment to meet the purposes of both Title I Part A and Title III. The CELLA will meet both the Title I and Title III requirements.

Without this amendment, the State will not be able to administer the CELLA for the spring 2006 assessment.

REQUEST: NON-COMPETITIVE AMENDMENT

RECEIVED

FEB 02 2006

FISCAL REVIEW

APPROVED

Commissioner of Finance & Administration

Date:

EACH REQUEST ITEM BELOW MUST BE DETAILED OR ADDRESSED AS REQUIRED.

1) RFS #

331.03-097-05

2) State Agency Name :

Department of Education

EXISTING CONTRACT INFORMATION

3) Service Caption :

Title I

4) Contractor :

Educational Testing Service (ETS)

5) Contract #

FA-05-16334-00

6) Contract Start Date : (attached explanation required if date is < 60 days after F&A receipt)

4/10/05

7) Current Contract End Date IF all Options to Extend the Contract are Exercised :

4/09/06

8) Current Total Maximum Cost IF all Options to Extend the Contract are Exercised :

\$208,500

PROPOSED AMENDMENT INFORMATION

9) Proposed Amendment #

1

10) Proposed Contract End Date IF all Options to Extend the Contract are Exercised :

9/30/06

11) Proposed Total Maximum Cost IF all Options to Extend the Contract are Exercised :

\$637,907.00

12) Approval Criteria :
(select one)

use of Non-Competitive Negotiation is in the best interest of the state



only one uniquely qualified service provider able to provide the service

13) Description of the Proposed Amendment Effects & Any Additional Service :

This proposed amendment will allow the State to accomplish the following changes in scope as a natural progression of the existing contract. These proposed changes will allow for the following additional deliverables and services:

- a. Change contract end date from 04/09/06 to 09/30/06;
- b. Add services to the scope and increase funding for these services;

- i. Purchase additional Comprehensive English Language Learning Assessment (CELLA) test booklets for Tennessee Comprehensive Assessment Program (TCAP) for the spring 2006 administration, purchase scanning, scoring, and reporting services for the tests after the completion of the spring 2006 CELLA administration. We have estimated the cost for the services to be no greater than \$325,440.
- ii. Conduct a standard setting to establish final cut scores for all proficiency levels (beginner, high beginner, intermediate, high intermediate or advanced) to document progress of English Language Learners (ELLs) from year to year, as required under the No Child Left Behind Act of 2001 (NCLB). We have estimated that the cost for this item will be no greater than \$103,967.

If this amendment is not approved and executed, the Department of Education will be out of compliance with the No Child Left Behind Act of 2001 (NCLB). This will result in an audit finding when the U.S. Department of Education (USDOE) conducts a monitoring visit in Tennessee during the week of April 3, 2006. The following options were considered, but determined to be non-compliant with the NCLB requirements.

- Option #1-districts could administer the same CELLA Form 1 that was used in spring 2005 if additional tests and answer documents for all ELLs are purchased. However, there may not be enough CELLA Form 1 materials available. Educational Testing Service will use CELLA Form 2 for 2005-2006 testing and distribution of CELLA Form 1 is not scheduled. Districts would have to score and report back to the Department of Education the outcomes. This self scoring and data reporting would not meet the USDOE criteria for test security. This option would also require amending the existing contract to allow for the purchase of new test booklets.
- Option #2-districts could use the 2002-2004 Idea Proficiency Test (IPT). However, the old IPT is not aligned with the English as a Second Language curriculum standards. Districts would have to score and report outcomes to the Department of Education. This self scoring and data reporting would not meet the USDOE criteria for test security.
- Option #3-districts could purchase other English language proficiency tests. This would result in a wide variety of tests being used statewide. There is a great possibility that the tests selected by each district would not be aligned with our State Reading/Language Arts standards and/or the English As a Second Language curriculum standards. Districts would have to score and report the outcome to the Department of Education. This self scoring and data reporting would not meet the USDOE criteria for test security.

14) Explanation of Need for the Proposed Amendment :

The Department of Education needs the proposed amendment for two main reasons. First, the Department of Education is required by Title I Part A of No Child Left Behind Act of 2001 (NCLB) to annually assess all students in grades 3-8, and one time in high school, in Reading/Language and Math in a manner which yields valid and reliable results. Title I Part A provides financial assistance through state educational agencies to local educational agencies to meet the educational needs of children who are failing or most at risk of failing to meet the State's challenging content and student performance standards. To meet this requirement for English Language Learners (ELLs), Tennessee's approved accountability workbook (USDOE action plan with our state) requires a specially designed test in Reading/Language Arts. The approved workbook indicates that this specially designed test will be aligned with our State content standards. The TN Department of Education provided a letter of support (copy attached) for Tennessee to enter a consortium with four other states, Educational Testing Service (ETS), and AccountabilityWorks. This consortium received a federal grant (\$1,978,762) to develop a specially designed test (assessment) to determine English language proficiency test for ELLs. The assessment that the consortium developed is called the Comprehensive English Language Learning Assessment (CELLA).

Second, the TN Department of Education is required by Title III Language Instruction for Limited English Proficient and Immigrant Students of NCLB to annually assess all English Language Learner (ELL) students from K-12 for English language proficiency with a specially designed test. Title III ensures that limited English proficient students including immigrant children and youth develop English proficiency and meet the same content and performance standards that other children are expected to meet. The TN Department of Education has committed to the U.S. Department of Education (USDOE) that it would use the same assessment to meet the purposes of both Title I Part A and Title III. As established in spring 2005, this assessment is currently the Comprehensive English Language Learning Assessment (CELLA). Without this amendment in place, the State will not be able to administer the CELLA for spring 2006 and meet the annual assessment requirements in both Title I Part A and Title III.

The USDOE would consider an amendment to our approved Accountability Workbook to use another English language proficiency assessment with ELL students for Title I Part A and Title III purposes. However, the State would need to have another assessment developed and in place to administer in order to obtain USDOE approval to replace the CELLA with another assessment. Since the spring 2006 testing administration has to occur in April, the Department of Education did not appropriately plan and allow sufficient time to issue a request for proposals (RFP) or to purchase another assessment and have it modified to meet our State's content standards by the due date. The Department of Education acknowledges that it did not follow purchasing policy to obtain the required assessment via a competitive process, and therefore, is requesting a non-competitive amendment to the existing contract for the spring 2006 assessment.

This is a critical year for the TN Department of Education to show compliance with assessment requirements under both Title I Part A and Title III. The USDOE has informed the State that it will be monitoring both Title I Part A and Title III programs. This year the State has received over \$200 million in Title I Part A funds and over \$4.5 million in Title III funds. As part of that monitoring, the USDOE will verify that the State is administering the required English language proficiency test as required by No Child Left Behind Act of 2001(NCLB) and the State's approved accountability workbook. Sanctions for non-compliance with requirements in either Title I Part A

or Title III could result in loss of federal education dollars.

By the end of school year 2005-2006, the State must have approval of its entire assessment system from the USDOE. This evaluation by the USDOE will happen during winter and spring 2006. The CELLA will be one of the state assessments that will be reviewed as part of that approval process. The State must establish final cut scores on the CELLA as a requirement of the approval process. Cut scores are the scores on the CELLA that an English Language Learner (ELL) student must attain to be classified as beginner, high beginner, intermediate, high intermediate, or advanced in English proficiency. Although the State established interim cut scores based on field test data, these interim cut scores were later determined to be non-valid and unreliable when compared to actual student performance on the CELLA during the Spring 2005 administration. This is in part because the field test data was collected with ELL test results from all five consortium states, but the Tennessee ELL performance differed and the resulting cut scores must reflect our state's needs independent of the consortium. Actual student performance data, which was unavailable during the Spring 2005 administration, is necessary in order to establish valid and reliable cut scores for use in Tennessee. That student performance data is now available (after the spring 2005 tests were completed) and will be used to establish new and complete cut scores. The Department of Education considers it a natural progression in the scope of the existing contract to develop final cut scores based on the actual student performance data from the spring 2005 testing. The process to determine these cut scores is referred to as "standard setting." CELLA is the property of Educational Testing Service (ETS); their staff will facilitate the standard setting. Their backgrounds with the assessment, as well as their access to the copyrighted assessment are critical components of the standard setting process.

USDOE has communicated that the consequences of a state not having an approved assessment system by school year 2006-2007, or being out of compliance with monitoring requirements for No Child Left Behind Act of 2001 (NCLB), could result in a state losing NCLB funds. As one component of the USDOE monitoring visit, they will check to see if Tennessee is calculating adequate yearly progress (AYP) based on the USDOE approved accountability workbook. This approved workbook is available on the Department of Education's website at <http://www.state.tn.us/education/acctnclbaypworkbook.pdf>. Page 44 of this accountability workbook refers to this assessment. To remain in compliance with our approved accountability workbook, we must administer the CELLA or submit and get approval of an amendment by the USDOE for another English language assessment before the spring 2006 testing cycle.

The CELLA was developed to align with our State's English/ Language Arts content standards, the Tennessee Comprehensive Assessment (TCAP), and the English As a Second Language (ESL) standards so that it could meet both Title I and Title III assessment requirements. Because of that, the Department of Education entered into the existing contract with ETS to administer the CELLA for the first time in spring 2005.

Name & Address of Contractor's Current Principal Owner(s) :
(not required if proposed contractor is a state education institution)

Educational Testing Service-Elementary and Secondary Education
10999 IH-10W
Suite 400
San Antonio, TX 78230

Phil Young
Director of Proposed Development

15) Documentation of Office for Information Resources Endorsement :
(required only if the subject service involves information technology)

select one:



Documentation Not Applicable to this Request



Documentation Attached to this Request

16) Documentation of Department of Personnel Endorsement :
(required only if the subject service involves training for state employees)

select one:



Documentation Not Applicable to this Request



Documentation Attached to this Request

17) Documentation of State Architect Endorsement :
(required only if the subject service involves construction or real property related services)

select one:



Documentation Not Applicable to this Request



Documentation Attached to this Request

18) Description of Procuring Agency Efforts to Identify Reasonable, Competitive, Procurement Alternatives :

Since the spring 2006 testing administration will occur in April, the Department of Education acknowledges that it did not appropriately plan and allow sufficient time to issue a request for proposals (RFP) or to purchase another assessment. The Department of Education acknowledges that it did not follow purchasing policy to obtain the required assessment via a competitive process and therefore is requesting a non-competitive amendment to the existing contract for the spring 2006 assessment. In return, the Department of Education agrees that it will issue an RFP for the Spring 2007 ELL Assessment.

Tennessee is a member of a consortium with four other states, Educational Testing Service (ETS), and AccountabilityWorks that received a federal grant (\$1,978,762) to develop a specially designed assessment for determining the English language proficiency of

English language learners (ELLs). The consortium developed the Comprehensive English Language Learning Assessment (CELLA). The CELLA is aligned with Tennessee English/Language Arts curriculum standards, Tennessee English As a Second Language curriculum standards and Tennessee assessments in Reading/Language Arts to ensure success for at risk ELL students. The expenditure of federal and state resources used in development of the CELLA has produced an excellent, valid and reliable language proficiency assessment. As a member of the consortium, Tennessee receives a discounted price for purchasing assessments. All other services, such as scoring and reports, are also given preferential pricing with a 20% discount.

There are other language proficiency assessments on the market such as IDEA Proficiency Test (IPT- Ballard and Tighe, Inc.), the ACCESS, another consortium (WIDA) developed assessment and the English Language Development Assessment (ELDA) that was developed by the Council of Chief State School Officers consortium. These assessments will meet the requirements of Title III, but these same tests would not meet the requirements of Title I Part A without modifications. Title I Part A requires that all assessments used for Title I Part A purposes (which is primarily to hold schools accountable for student performance results) be aligned with the state's academic standards. The other English language proficiency assessments on the market would need to be modified to meet the requirements of Title I Part A, which would take time to complete.

1. Ballard and Tighe, Inc.'s IDEA Proficiency Test (IPT) test booklets cost \$14.00 per student or \$336,000. Scanning, scoring, and reporting costs are estimated at \$17.00 per student or \$408,000. The total cost is estimated at \$781,000.
2. The English Language Development Assessment (ELDA) developed by the Council of Chief State School Officers (CCSSO) consortium, costs approximately \$20.00 per student, with a required licensing fee of \$150,000. The cost is not finalized yet, this is a tentative price, per CCSSO. However, their cost does include scanning, scoring and reporting services. Total estimated expense would be \$480,000 plus the \$150,000 licensing fee, for a cost of \$630,000.
3. *The ACCESS, another consortium (WIDA) developed assessment, costs \$20.00 per student for consortium members. The cost includes scanning, scoring and reporting. The cost for non-members was unavailable on the website, but could be assumed to be higher than the cost to consortium members. The total cost is estimated at \$480,000.00 plus price differential for Tennessee as a non-consortium state which has not been determined.

QUOTES FOR ENGLISH LANGUAGE PROFICIENCY TESTS

Contractor	Test	Purchase Tests, Scanning Scoring & Reporting	Standard Setting	Total
Ballard, & Tighe, Inc.	IDEA Proficiency Test (IPT)	\$744,000	\$37,000	\$781,000
Council of Chief State School Officers (CCSSO)	English Language Development Assessments (ELDA)	\$630,000	No estimate given	\$630,000
Educational Testing Service (ETS)	Comprehensive English Language Learning Assessment (CELLA)	\$325,440	\$103,967	\$429,407
Wisconsin, Iowa, Idaho & Arkansas Consortium (WIDA)	ACCESS	\$480,000 *	\$25,000	\$505,000

The above assessments are all more costly than the Comprehensive English Language Learning Assessment (CELLA) and would entail additional training for school district personnel. The costs from Educational Testing Service (ETS) have been determined to be fair and reasonable.

NOTE: Copies of these vendor quotes are attached to this request.

19) Justification for the Proposed Non-Competitive Amendment :

Tennessee is a member of a consortium with four other states, Educational Testing Service (ETS), and AccountabilityWorks that received a federal grant (\$1,978,762) to develop a state aligned assessment for determining the English language proficiency of English language learners (ELLs). The consortium developed the Comprehensive English Language Learning Assessment (CELLA). The CELLA is aligned with Tennessee English/Language Arts content standards, Tennessee English As a Second Language curriculum standards and Tennessee assessments in Reading/Language Arts to ensure success for at risk ELL students. The expenditure of federal and state resources used in development of the CELLA has produced an excellent, valid and reliable language proficiency assessment.

In 2002, the Department of Education provided a letter of support for Tennessee's participation in the consortium. This participation included:

- Entering into a memorandum of understanding with other member states regarding the activities and other feature of the consortium,
- Sending representatives to four on-site project meetings over the course of the project,
- Providing comments and input regarding the work product at key intervals and,
- Using the final product if it meets all of Tennessee's goals and needs, as judged by the State at the time of completion.

The Tennessee Department of Education Consolidated Application Accountability Workbook, revised June 2005, states that to provide for more reliable and valid assessment of limited English proficient students' content knowledge, the State has formed a consortium with four other states, under the auspices of AccountabilityWorks and the Educational Testing Service, and have been awarded a federal grant to develop an English language proficiency assessment aligned with or State's content standards.

Because Tennessee will be monitored for compliance with No Child Left Behind Act of 2001 (NCLB) and the State's assessment system will be reviewed for approval in early 2006, the continued administration of the Comprehensive English Language Learning Assessment (CELLA) during the spring 2006 testing cycle is critical.

Both Title I Part A and Title III sections of No Child Left Behind Act of 2001(NCLB) require the annual assessment of all students who are limited English proficient (English Language Learners or ELLs). The assessments are required to ascertain gains in acquiring English and gains in attaining proficiency, as well as Reading/Language Arts and Mathematics. The CELLA is aligned with Tennessee's English/Language Arts curriculum standards, Tennessee's English As a Second Language curriculum standards, and Tennessee's Reading/Language Arts assessments.

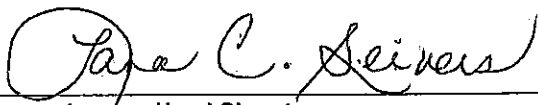
The standard setting to determine each proficiency level of English Language Learner (ELL) students (beginner, high beginner, intermediate, high intermediate, or advanced) and documenting progress in gaining proficiency are mandatory requirements under NCLB. With the use of the CELLA during the spring 2006 testing cycle, the State will establish final cut scores (as defined in question 14). Establishing final cut scores to determine proficiency is called standard setting. CELLA is the property of Educational Testing Service (ETS); their staff will facilitate the standard setting. Their backgrounds with the assessment, as well as their access to the copyrighted assessment are critical components of the standard setting process.

The Department of Education understands that a request for proposals (RFP), for an English language proficiency test that would meet the requirements in both Title I Part A and Title III, should have been issued for the spring 2006 testing cycle. However, because of the Department of Education's delay and insufficient planning, there is not enough time available to release a request for proposals, award a new contract, purchase and disseminate the testing materials, and train the local school district staff on the implementation of a new English language proficiency test by the State's test window of the last two weeks in April.

Because we have allowed the timeline to accomplish these activities to become unmanageable for the upcoming spring 2006 testing cycle, we request approval to amend the existing contract to provide these additional services as stated in question #13 for this testing cycle, with the understanding that a competitive process will be used for testing in spring 2007.

REQUESTING AGENCY HEAD SIGNATURE & DATE :

(must be signed & dated by the ACTUAL procuring agency head as detailed on the Signature Certification on file with OCR— signature by an authorized signatory will be accepted only in documented exigent circumstances)



Agency Head Signature

1.24.06

Date

**AMENDMENT # 01
TO CONTRACT FA-05-16334-00**

This Contract, by and between the State of Tennessee, DEPARTMENT OF EDUCATION, hereinafter referred to as the State, and EDUCATIONAL TESTING SERVICE, hereinafter referred to as the Contractor, is hereby amended as follows:

1. Revise Section A to include the following:

For the Spring 2006 assessment cycle:

- A.3 The Contractor will print and deliver Level A, B, C, and D CELLA Form 2 assessments for no more than 24,000 English Language Learners (ELL) in grades K – 12.
- A.4 The Contractor will ship the CELLA materials to the local education agencies (LEA) across the state. The State will provide the Contractor with the number of materials required for shipment to each LEA no later than March 1, 2006 for delivery to the LEAs by April 1, 2006.
- A.5 The Contractor will provide the following:
 - a. Scanning of the CELLA assessments administered by the LEAs
 - b. Scoring of the CELLA assessment using hand scoring with two (2) readers per test.
 - c. Reporting of the CELLA assessment results that will include the following:
 - o Student level reporting*
 - o Teacher level reporting that includes all ELL students assigned to each teacher*
 - o School level reporting that includes all teacher and the ELL students assigned to the teachers within that each school*
 - o District level reporting that includes a culmination of all school level reports*
 - o State level report that includes a culmination of all district level reports**

* Student, teacher, school and district reports shall be completed and returned to the LEAs within twenty one (21) business days from the Contractor's receipt of the LEA materials and answer documents.

** State level reports shall be completed and returned to the State within twenty-one (21) business days of receipt of the final LEAs materials and answer documents.
- A.6 The Contractor will provide the State all scanned data in an ASCII file.
- A.7 The Contractor will conduct a two day standard setting meeting using the Bookmark Method. The details of the Bookmark Method are:
 - a. For each CELLA level (A, B, C, D in Listening/Speaking, Reading, and Writing) cut scores will be recommended by panel of educators selected by the State. If a composite (across domain) cut score is needed, it will be computed directly from the domain-specific cut scores recommended by the panels.
 - b. The panel's recommendations will be based on the following five (5) proficiency levels: Beginner, High Beginner, Intermediate, High Intermediate, Advanced
 - c. For the Listening and Speaking sections, cut scores will be determined for each assessment level (A, B, C, D), for each of the five proficiency levels at each grade level.
 - d. For the Reading and Writing sections, the outcome of the standard-setting meeting will be fourteen (14) cut score recommendations. Seven (7) cut scores will be recommended for the Reading CELLA score and seven (7) cut scores will be recommended for the Writing CELLA score. The following represents the cut scores for both Reading and Writing portions:

- o Level A – two (2) cuts: One (1) at Intermediate, One (1) at High Intermediate.
 - A score below the cut score for Intermediate is scored as High Beginner
 - The State has defined Beginner as a student who does not respond to ANY Level A questions
 - The State is not differentiating between High Intermediate and Advanced for Level A.
- o Levels B and C– two (2) cuts: One (1) at High Intermediate, One (1) at Advanced.
 - A score below the cut score for High Intermediate is Intermediate
- o Level D – one (1) cut: Advanced
 - A score below the cut score for Advanced is High Intermediate
- e. One grade, per CELLA level (A, B, C, D) will be determined at the standard setting meeting.

A.8 The Contractor will statistically determine other grade level cut scores within each assessment level.

A.9 The Contractor will provide the State with the additional cut scores by April 30, 2006.

2. Delete Section B.1. in its entirety and replace it with the following:

B.1. Contract Term. This Contract shall be effective for the period commencing on April 10, 2006 and ending on September 30, 2006. The State shall have no obligation for services rendered by the Contractor which are not performed within the specified period.

3. Delete in its entirety C.1. and replace with the following.

C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed Six Hundred Thirty-seven Thousand Nine Hundred Seven Dollars and No Cents (\$637,907.00). The Service Rates in Section C.3 shall constitute the entire compensation due the Contractor for the Service and all of the Contractor's obligations hereunder regardless of the difficulty, materials or equipment required. The Service Rates include, but are not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor.

The Contractor is not entitled to be paid the maximum liability for any period under the Contract or any extensions of the Contract for work not requested by the State. The maximum liability represents available funds for payment to the Contractor and does not guarantee payment of any such funds to the Contractor under this Contract unless the State requests work and the Contractor performs said work. In which case, the Contractor shall be paid in accordance with the Service Rates detailed in Section C.3. The State is under no obligation to request work from the Contractor in any specific dollar amounts or to request any work at all from the Contractor during any period of this Contract.

4. Revise Section C.3. to add the following:

SERVICE UNIT/ MILESTONE	AMOUNT
CELLA Test Form 2, Level A, B, C, D (includes, test booklets, scanning, scoring, reporting)	\$13.56 / Per Test
Standard Setting Meeting	\$103,967.00/upon completion and acceptance by the state.

The other terms and conditions of this CONTRACT not amended hereby shall remain in full force and effect.

IN WITNESS WHEREOF:

EDUCATIONAL TESTING SERVICE:

Patricia Lloyd-Morterud, Director of Contracts

Date

DEPARTMENT OF EDUCATION:

Lana C. Seivers, Commissioner

Date

APPROVED:

DEPARTMENT OF FINANCE AND ADMINISTRATION:

M. D. Goetz, Jr., Commissioner

Date

COMPTROLLER OF THE TREASURY:

John G. Morgan, Comptroller of the Treasury

Date

C O N T R A C T S U M M A R Y S H E E T

RFS Number: 331.03-097-05		Contract Number: FA-05-16334-00	
State Agency: Department of Education		Division: NCLB	
Contractor EDUCATIONAL TESTING SERVICE		Contractor Identification Number V210634479-03	
		<input checked="" type="checkbox"/> V- <input type="checkbox"/> C-	
Service Description			
Title I			
Contract Begin Date April 10, 2005		Contract End Date April 09, 2006	
Allotment Code	Cost Center	Object Code	Fund
331.03	475	083	25
		<input checked="" type="checkbox"/> on STARS	
		Grant Code CN5	
		Subgrant Code AAX	
FY	State Funds	Federal Funds	Interdepartmental Funds
2005	\$0.00	\$208,500.00	\$0.00
		Other Funding \$0.00	
		Total Contract Amount (including ALL amendments) \$208,500.00	
		OCR RELEASED	
		MAY 20 2005	
Total:	\$0.00	\$208,500.00	\$0.00
		TO ACCOUNTS	
CFDA #	84.369A		
State Fiscal Contact		Check the box ONLY if the answer is YES:	
Name: John Sharp		Is the Contractor a SUBRECIPIENT? (per OMB A-133)	
Address: 710 James Robertson Pkwy 6th Floor, Andrew Johnson Tower Nashville, TN 37243		Is the Contractor a VENDOR? (per OMB A-133)	
Phone: 615-532-1658		Is the Fiscal Year Funding STRICTLY LIMITED?	
Procuring Agency Budget Officer Approval Signature		Is the Contractor on STARS?	
		Is the Contractor's FORM W-9 ATTACHED?	
		Is the Contractors Form W-9 Filed with Accounts?	
COMPLETE FOR ALL AMENDMENTS (only)		Funding Certification	
	Base Contract & Prior Amendments	Pursuant to T.C.A., Section 9-6-113, I. M. D. Goetz, Jr., Commissioner of Finance and Administration, do hereby certify that there is a balance in the appropriation from which this obligation is required to be paid that is not otherwise encumbered to pay obligations previously incurred.	
END DATE →			
FY:			
FY:			
FY:			
FY:			
FY:			
FY:			
Total:	\$0.00	\$0.00	

RECEIVED
 MAY 17 11:02
 NCLB

**CONTRACT
BETWEEN THE STATE OF TENNESSEE,
DEPARTMENT OF EDUCATION
AND
EDUCATIONAL TESTING SERVICE**

This Contract, by and between the State of Tennessee, DEPARTMENT OF EDUCATION, hereinafter referred to as the "State" and EDUCATIONAL TESTING SERVICE, hereinafter referred to as the "Contractor," is for the provision of the purchase of Comprehensive English Language Learning Assessment (CELLA) for statewide implementation, as further defined in the "SCOPE OF SERVICES."

The Contractor is A NONPROFIT CORPORATION. The Contractor's address is:

ROSEDALE ROAD, MAIL STOP 38D
PRINCETON, NJ 08541

The Contractor's place of incorporation or organization is New York.

A. SCOPE OF SERVICES:

- A.1 Contractor agrees to license the Comprehensive English Language Learning Assessment (CELLA) to the State of Tennessee Department of Education, in conformance with the License Agreement, attached as Appendix A and hereby incorporated in this Contract.

In addition, Contractor will print and deliver a maximum of 24,200 Level A, B, C, and D CELLA assessments English Language Learners (ELL), grades K-12. Contractor will print and deliver a maximum of 2,420 Locator Tests for determining functional reading and writing level for CELLA test administration.

The CELLA testing materials will be shipped to three locations in Tennessee: Memphis, Nashville, and Knoxville for state-wide distribution. The exact quantities and shipping addresses for each location will be provided by the State. Shipping charges will not be invoiced separately, but are included in the price of the Tests.

Form 1 of all CELLA levels (A, B, C, and D) will be available to the 136 Local Education Agencies (LEA's) in TN for identification and assessment purposes after completion of the Spring 2005 state assessment, beginning May 15, 2005.

Form 2 of all CELLA levels (A, B, C, and D) will be used as a secure Statewide assessment in Spring 2006 and will not be sold directly to LEA's, but use of the Form 2 CELLA will be licensed to the State Department of Education.

Form 2 of all CELLA levels (A, B, C, and D) are secure, confidential tests and will not be available for purchase by LEA's.

- A.2 **PERFORMANCE MEASURES:** The following describes quantitative, results-based, performance measures to evaluate successful completion of activities required by this contract. These measures are agreed by both parties to demonstrate results to be achieved.

The CELLA and Locator tests will be delivered, as agreed, to three Tennessee locations determined by the Department of Education, to be received by April 10, 2005.

Contractor will make Form 1 of all CELLA levels (A, B, C, and D) available for purchase by LEA's after May 15, 2005.

Form 2 of all CELLA levels (A, B, C, and D), secure, confidential forms, will not be available for purchase by LEA's.

B. CONTRACT TERM:

- B.1. Contract Term. This Contract shall be effective for the period commencing on April 10, 2005 and ending on April 9, 2006. The State shall have no obligation for services rendered by the Contractor which are not performed within the specified period.

C. PAYMENT TERMS AND CONDITIONS:

- C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed Two Hundred Eight Thousand Five Hundred Dollars and No Cents (\$208,500.00). The Service Rates in Section C.3 shall constitute the entire compensation due the Contractor for the Service and all of the Contractor's obligations hereunder regardless of the difficulty, materials or equipment required. The Service Rates include, but are not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor.

The Contractor is not entitled to be paid the maximum liability for any period under the Contract or any extensions of the Contract for work not requested by the State. The maximum liability represents available funds for payment to the Contractor and does not guarantee payment of any such funds to the Contractor under this Contract unless the State requests work and the Contractor performs said work. In which case, the Contractor shall be paid in accordance with the Service Rates detailed in Section C.3. The State is under no obligation to request work from the Contractor in any specific dollar amounts or to request any work at all from the Contractor during any period of this Contract.

- C.2. Compensation Firm. The Service Rates and the Maximum Liability of the State under this Contract are firm for the duration of the Contract and are not subject to escalation for any reason unless amended.
- C.3. Payment Methodology. The Contractor shall be compensated based on the Service Rates herein for units of service authorized by the State in a total amount not to exceed the Contract Maximum Liability established in Section C.1. The Contractor's compensation shall be contingent upon the satisfactory completion of units of service or project milestones defined in Section A. The Contractor shall be compensated based upon the following Service Rates:

SERVICE UNIT/MILESTONE	AMOUNT
CELLA Test Form 1, Level A, B, C, D	\$8.40/Per Test
Locator Test	\$1.00/Per Test

The Contractor shall submit monthly invoices, in form and substance acceptable to the State with all of the necessary supporting documentation, prior to any payment. Such invoices shall be submitted for completed units of service or project milestones for the amount stipulated.

- C.4. Travel Compensation. The Contractor shall not be compensated or reimbursed for travel, meals, or lodging.
- C.5. Payment of Invoice. The payment of the invoice by the State shall not prejudice the State's right to object to or question any invoice or matter in relation thereto. Such payment by the State

shall neither be construed as acceptance of any part of the work or service provided nor as an approval of any of the amounts invoiced therein.

- C.6. Invoice Reductions. The Contractor's invoice shall be subject to reduction for amounts included in any invoice or payment theretofore made which are determined by the State, on the basis of audits conducted in accordance with the terms of this contract, not to constitute proper remuneration for compensable services.
- C.7. Deductions. The State reserves the right to deduct from amounts which are or shall become due and payable to the Contractor under this or any contract between the Contractor and the State of Tennessee any amounts which are or shall become due and payable to the State of Tennessee by the Contractor.
- C.8. Automatic Deposits. The Contractor shall complete and sign an "Authorization Agreement for Automatic Deposit (ACH Credits) Form." This form shall be provided to the Contractor by the State. Once this form has been completed and submitted to the State by the Contractor all payments to the Contractor, under this or any other contract the Contractor has with the State of Tennessee shall be made by Automated Clearing House (ACH). The Contractor shall not invoice the State for services until the Contractor has completed this form and submitted it to the State.
- D. STANDARD TERMS AND CONDITIONS:
- D.1. Required Approvals. The State is not bound by this Contract until it is approved by the appropriate State officials in accordance with applicable Tennessee State laws and regulations.
- D.2. Modification and Amendment. This Contract may be modified only by a written amendment executed by all parties hereto and approved by the appropriate Tennessee State officials in accordance with applicable Tennessee State laws and regulations.
- D.3. Termination for Convenience. The State may terminate this Contract without cause for any reason. Said termination shall not be deemed a Breach of Contract by the State. The State shall give the Contractor at least Thirty (30) days written notice before the effective termination date. The Contractor shall be entitled to receive compensation for satisfactory, authorized service completed as of the termination date, but in no event shall the State be liable to the Contractor for compensation for any service which has not been rendered. Upon such termination, the Contractor shall have no right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
- D.4. Termination for Cause. If the Contractor fails to properly perform its obligations under this Contract in a timely or proper manner, or if the Contractor violates any terms of this Contract, the State shall have the right to immediately terminate the Contract and withhold payments in excess of fair compensation for completed services. Notwithstanding the above, the Contractor shall not be relieved of liability to the State for damages sustained by virtue of any breach of this Contract by the Contractor.
- D.5. Subcontracting. The Contractor shall not assign this Contract or enter into a subcontract for any of the services performed under this Contract without obtaining the prior written approval of the State. If such subcontracts are approved by the State, they shall contain, at a minimum, sections of this Contract pertaining to "Conflicts of Interest" and "Nondiscrimination" (sections D.6. and D.7.). Notwithstanding any use of approved subcontractors, the Contractor shall be the prime contractor and shall be responsible for all work performed.
- D.6. Conflicts of Interest. The Contractor warrants that no part of the total Contract Amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Contractor in connection with any work contemplated or performed relative to this Contract.

- D.7. Nondiscrimination. The Contractor hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the Contractor on the grounds of disability, age, race, color, religion, sex, national origin, or any other classification protected by Federal, Tennessee State constitutional, or statutory law. The Contractor shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.
- D.8. Records. The Contractor shall maintain documentation for all charges against the State under this Contract. The books, records, and documents of the Contractor, insofar as they relate to work performed or money received under this contract, shall be maintained for a period of three (3) full years from the date of the final payment and shall be subject to audit at any reasonable time and upon reasonable notice by the State, the Comptroller of the Treasury, or their duly appointed representatives. The financial statements shall be prepared in accordance with generally accepted accounting principles.
- D.9. Monitoring. The Contractor's activities conducted and records maintained pursuant to this Contract shall be subject to monitoring and evaluation by the State, the Comptroller of the Treasury, or their duly appointed representatives.
- D.10. Progress Reports. The Contractor shall submit brief, periodic, progress reports to the State as requested.
- D.11. Strict Performance. Failure by any party to this Contract to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this Contract shall not be construed as a waiver or relinquishment of any such term, covenant, condition, or provision. No term or condition of this Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the parties hereto.
- D.12. Independent Contractor. The parties hereto, in the performance of this Contract, shall not act as employees, partners, joint venturers, or associates of one another. It is expressly acknowledged by the parties hereto that such parties are independent contracting entities and that nothing in this Contract shall be construed to create an employer/employee relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.
- The Contractor, being an independent contractor and not an employee of the State, agrees to carry adequate public liability and other appropriate forms of insurance, including adequate public liability and other appropriate forms of insurance on the Contractor's employees, and to pay all applicable taxes incident to this Contract.
- D.13. State Liability. The State shall have no liability except as specifically provided in this Contract.
- D.14. Force Majeure. The obligations of the parties to this contract are subject to prevention by causes beyond the parties' control that could not be avoided by the exercise of due care including, but not limited to, acts of God, riots, wars, strikes, epidemics or any other similar cause.
- D.15. State and Federal Compliance. The Contractor shall comply with all applicable State and Federal laws and regulations in the performance of this Contract.
- D.16. Governing Law. This Contract shall be governed by and construed in accordance with the laws of the State of Tennessee. The Contractor agrees that it will be subject to the exclusive jurisdiction of the courts of the State of Tennessee in actions that may arise under this Contract. The Contractor acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any remedies arising therefrom, shall be subject to and limited to

those rights and remedies, if any, available under *Tennessee Code Annotated*, Sections 9-8-101 through 9-8-407.

D.17. Completeness. This Contract is complete and contains the entire understanding between the parties relating to the subject matter contained herein, including all the terms and conditions of the parties' agreement. This Contract supersedes any and all prior understandings, representations, negotiations, and agreements between the parties relating hereto, whether written or oral.

D.18. Severability. If any terms and conditions of this Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions hereof shall not be affected thereby and shall remain in full force and effect. To this end, the terms and conditions of this Contract are declared severable.

D.19. Headings. Section headings of this Contract are for reference purposes only and shall not be construed as part of this Contract.

E. SPECIAL TERMS AND CONDITIONS:

E.1. Conflicting Terms and Conditions. Should any of these special terms and conditions conflict with any other terms and conditions of this Contract, these special terms and conditions shall control.

E.2. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Contract shall be in writing and shall be made by facsimile transmission, by overnight courier service, or by first class mail, postage prepaid, addressed to the respective party at the appropriate facsimile number or address as set forth below or to such other party, facsimile number, or address as may be hereafter specified by written notice.

The State:

Carol Irwin
DEPARTMENT OF EDUCATION
5th Floor, Andrew Johnson Tower
710 James Robertson Parkway
Nashville, TN 37243-0379
Telephone Number: 615-741-3262
Fax Number: 615-532-8536

The Contractor:

Jean Shipos
EDUCATIONAL TESTING SERVICE
Rosedale & Carter Rds
Mail Stop 38D
Princeton, NJ 08541
Telephone Number: 609-734-5652
Fax Number: 609-734-5183

All instructions, notices, consents, demands, or other communications shall be considered effectively given as of the day of delivery; as of the date specified for overnight courier service delivery; as of three (3) business days after the date of mailing; or on the day the facsimile transmission is received mechanically by the telefax machine at the receiving location and receipt is verbally confirmed by the sender if prior to 4:30 p.m. CST. Any communication by facsimile transmission shall also be sent by United States mail on the same date of the facsimile transmission.

E.3. Subject to Funds Availability. The Contract is subject to the appropriation and availability of State and/or Federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the State reserves the right to terminate the Contract upon written notice to the

Contractor. Said termination shall not be deemed a breach of Contract by the State. Upon receipt of the written notice, the Contractor shall cease all work associated with the Contract. Should such an event occur, the Contractor shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

E.4. Lobbying. The Contractor certifies, to the best of its knowledge and belief, that::

No federally appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, and entering into any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this contract, grant, loan, or cooperative agreement, the Contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

The Contractor shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-grants, subcontracts, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients of federally appropriated funds shall certify and disclose accordingly.

E.5. Public Funding Notice. All notices, informational pamphlets, press releases, research reports, signs, and similar public notices prepared and released by the Contractor relative to this Contract shall include the statement, "This project is funded under an agreement with the State of Tennessee." Any such notices by the Contractor shall be approved by the State.

E.6. Prohibited Advertising. The Contractor shall not refer to this Contract or the Contractor's relationship with the State hereunder in commercial advertising in such a manner as to state or imply that the Contractor or the Contractor's services are endorsed.

E.7. Confidentiality of Records. Strict standards of confidentiality of records shall be maintained in accordance with the law. All material and information, regardless of form, medium or method of communication, provided to the Contractor by the State or acquired by the Contractor on behalf of the State shall be regarded as confidential information in accordance with the provisions of State law and ethical standards and shall not be disclosed, and all necessary steps shall be taken by the Contractor to safeguard the confidentiality of such material or information in conformance with State law and ethical standards.

The Contractor will be deemed to have satisfied its obligations under this section by exercising the same level of care to preserve the confidentiality of the State's information as the Contractor exercises to protect its own confidential information so long as such standard of care does not violate the applicable provisions of the first paragraph of this section.

The Contractor's obligations under this section do not apply to information in the public domain; entering the public domain but not from a breach by the Contractor of this Contract; previously possessed by the Contractor without written obligations to the State to protect it; acquired by the Contractor without written restrictions against disclosure from a third party which, to the Contractor's knowledge, is free to disclose the information; independently developed by the Contractor without the use of the State's information; or, disclosed by the State to others without restrictions against disclosure.

It is expressly understood and agreed the obligations set forth in this section shall survive the termination of this Contract.

- E.8. Copyrights and Patents. The Contractor agrees to indemnify and hold harmless the State of Tennessee as well as its officers, agents, and employees from and against any and all claims or suits which may be brought against the State for infringement of any laws regarding patents or copyrights which may arise from the Contractor's performance of this Contract. In any such action brought against the State, the Contractor shall satisfy and indemnify the State for the amount of any final judgment for infringement. The Contractor further agrees it shall be liable for the reasonable fees of attorneys for the State in the event such service is necessitated to enforce the terms of this Contract or otherwise enforce the obligations of the Contractor to the State. The State shall give the Contractor written notice of any such claim or suit and full right and opportunity to conduct the Contractor's own defense thereof.
- E.9. Date/Time Hold Harmless. As required by *Tennessee Code Annotated*, Section 12-4-118, the contractor shall hold harmless and indemnify the State of Tennessee; its officers and employees; and any agency or political subdivision of the State for any breach of contract caused directly or indirectly by the failure of computer software or any device containing a computer processor to accurately or properly recognize, calculate, display, sort or otherwise process dates or times.
- E.10. Debarment and Suspension. The Contractor certifies, to the best of its knowledge and belief, that it and its principles:
- a. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal or State department or agency;
 - b. have not within a three (3) year period preceding this Grant been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offence in connection with obtaining attempting to obtain, or performing a public (Federal, State, or Local) transaction or grant under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;
 - c. are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or Local) with commission of any of the offenses detailed in section b. of this certification; and
 - d. have not within a three (3) year period preceding this Grant had one or more public transactions (Federal, State, or Local) terminated for cause or default.

IN WITNESS WHEREOF:

EDUCATIONAL TESTING SERVICE:


Patricia Lloyd-Mortrud, Director of Contracts

4-8-05
Date

DEPARTMENT OF EDUCATION:


Lana C. Seivers, Commissioner

4-18-05
Date

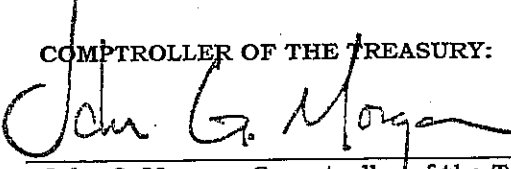
APPROVED:

DEPARTMENT OF FINANCE AND ADMINISTRATION:


M. D. Goetz, Jr., Commissioner

MAY 16 2005
Date

COMPTROLLER OF THE TREASURY:


John G. Morgan, Comptroller of the Treasury

5/2/05
Date

APPENDIX A

LICENSE AGREEMENT
FOR USE OF THE
COMPREHENSIVE ENGLISH LANGUAGE LEARNING ASSESSMENT

The Comprehensive English Language Learning Assessment (CELLA), formerly called the English Language Proficiency Assessment (EPAS), was developed under a United States Department of Education grant in response to the No Child Left Behind Act and assesses the Reading, Writing, Speaking and Listening levels of the English language learner. The CELLA and all related materials (the "Test Materials"), including but not limited to the test books, scoring guides, CDs, and directions for administration are the proprietary, copyrighted materials of ETS and may only be used in accordance with the following terms and conditions:

1. Grant of License. ETS grants the Tennessee Department of Education ("Licensee"), a perpetual, nonexclusive, royalty-free license to use, reproduce in total, and distribute the Test Materials as listed on the Attachment A for use in Licensee's state only. This copyright license may not be transferred or assigned to any other person, party, school, or state, without ETS's written consent. Return one fully executed license to Educational Testing Service, Corporate Contracts and Intellectual Property Management, Attention: Jean Shipos, Mail Stop 38-D, Rosedale Road, Princeton, NJ 08541.
2. Restrictions. The Test Materials will be provided in camera-ready PDF format and must be reproduced and used "as is", and will not be modified in any manner and not taken apart, reorganized or used for any purpose other than for which it is intended. Licensee agrees not to remove or alter any copyright or other protective notices that appear on the Test Materials when delivered to Licensee.
3. Unauthorized Access. Licensee agrees not to allow any third party to use, borrow, view or modify the Test Materials, except as permitted by the Licensee for administration in the state, and further understands that unauthorized use or reproduction of these materials would be damaging to ETS. Licensee also agrees to keep the Test Materials in a secure location when not in use to prevent unauthorized access or reproduction. If the Licensee contracts with a third party vendor for printing, administration, or scoring purposes, the Licensee agrees to monitor the third party's confidential use of the Test Materials and agrees to restrict the third party's use to the State's express purposes. No alteration to the Test Materials is permitted.
4. Liability. Licensee shall have the sole responsibility for establishing minimum qualifications and requirements of test takers. ETS shall have no liability for general, special, or consequential damages from or claiming to have resulted from establishing qualifications, requirements, or scores, or from any other action by Licensee, including inappropriate use or misuse of the Test Materials and related scores. ETS shall have no liability for any claim of infringement if the Test Materials are altered in any way or combined with materials provided by others, where such infringement would have been avoided by the use of the Test Materials alone.

Upon receipt of the signed agreement, the Test Materials will be provided to Licensee.

AGREED AND ACCEPTED: (Name of Organization) _____

Signature: _____

Printed Name: _____

Title: _____

Date: _____

ATTACHMENT A

**TEST MATERIALS COVERED BY THIS LICENSE
(in any form or medium provided):**

CELLA Test Books:

Form 1, Levels A, B, C, D

Form 2, Levels A, B, C, D

Locator Test

CELLA Answer Sheets

CELLA Directions for Administration

CELLA Coordinator's Manual

CELLA Scoring Guides for Speaking and Training CDs

CELLA Scoring Guides for Writing

CELLA Scoring Keys

CELLA Listening CDs

CELLA Technical Summary Report

FA CONTRACT INFORMATION SUPPLEMENT

FOR ALL FA-TYPE CONTRACTS – COMPLETE EITHER SECTION A OR SECTION B

Contract RFS # 331.03-097-05

Contractor: Educational Testing Service

SECTION A– THE CONTRACTOR IS AN INDIVIDUAL

Is or has the contractor been a state employee?

☒ NO (no additional information required)☐ YES

Was such employment within the past six months?

☐ NO☐ YES (an approved rule exception permitting a contract within six months of employment is also required)

Does the contractor receive Tennessee Consolidated Retirement System (TCRS) retirement benefits?

☐ NO☐ YES (the procuring agency general counsel MUST sign an analysis of this procurement using the TCRS analysis guidelines)SECTION B– THE CONTRACTOR IS A COMPANY
(e.g., sole proprietorship, partnership, or corporation)

Does an individual, who is or has been a state employee, own controlling interest in (or own) the contractor company?

☒ NO (no additional information required)☐ YES

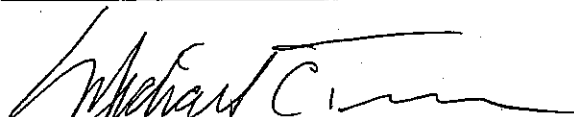
Was such employment within the past six months?

☐ NO☐ YES (an approved rule exception permitting a contract within six months of employment is also required)

Does the individual who owns controlling interest in the contractor company receive Tennessee Consolidated Retirement System (TCRS) retirement benefits?

☐ NO☐ YES (the procuring agency general counsel MUST sign an analysis of this procurement using the TCRS analysis guidelines)

SIGNATURE



SERVICE CONTRACTS COORDINATOR

4-18-05

DATE

EXECUTIVE DETERMINATION NEEDED

RFS# 331.03-097-05

DATE: November 14, 2005

The attached is submitted for executive-level review and approval determination. The following observations may be relevant to the determination:

The written justification for the proposed non-competitive amendment appears to detail virtually the same text as the justification for a separate non-competitive contract request (RFS# 331.03-028) forwarded to executives for review earlier today.

The text written in justification may not substantiate doing business with the proposed contractor instead of another and may not adequately support both the non-competitive contract request and the non-competitive amendment request.

If executives determine to approve the request as drafted, please sign the documentation as appropriate on behalf of the F&A Commissioner to indicate approval.

Thanks.

- IT APPEARS THAT THE CONTRACTOR FAILED TO DELIVER ON THE ORIGINAL CONTRACTS.
- THE AMENDMENT SEEMS TO ADD ~~\$~~ FOR NO CHANGE IN SCOPE/DELIVERABLES.

S064

S T A R S
DOCUMENT FILE

01/13/06
09:31

DIRECT ACCESS:

FUNCTION: I (I, N), F1-HELP, F2-RETURN TO MENU, F4-END DIRECT ACCESS

DEPT: 331 DIV: 03 FFY: 06 FUND: 25 DOC NO: FA0516334 00 GL ACCT: 0450
PERIOD SELECTION: CMB (CMB PMB PY)

DESCRIPTION: 041005 TITLE 1
COST CENTER: 475 OBJ: 083 AGY OBJ: SRC: AGY SRC:
ORG CODE: PROJECT: LOCATION:
PGM CODE: GRANT: CN5 AAX SUB ACCT:
VENDOR NO: V210634479 03 VENDOR NAME: EDUCATIONAL TESTING SERVICE

DATE SEGMENT	DOCUMENT AMT:	208,500.00
CREATE: 080805	ADJUSTMENTS:	.00
LAST PROC: 101705	LIQUIDATIONS:	205,520.00-
CLOSE:	RECEIPT/PYMT:	205,520.00
DUE:	RETENTION:	.00
DOCUMENT: 040906	BALANCE	2,980.00

Z26 NEXT RECORD RECALLED
Z41 ENTER INQUIRY DATA

*unpaid balance
due to less than
max Qty
being purchased*

**CONTRACT
BETWEEN THE STATE OF TENNESSEE,
DEPARTMENT OF EDUCATION
AND
EDUCATIONAL TESTING SERVICE**

This Contract, by and between the State of Tennessee, DEPARTMENT OF EDUCATION, hereinafter referred to as the "State" and EDUCATIONAL TESTING SERVICE, hereinafter referred to as the "Contractor," is for the provision of the purchase of Comprehensive English Language Learning Assessment (CELLA) for statewide implementation, as further defined in the "SCOPE OF SERVICES."

The Contractor is A NONPROFIT CORPORATION. The Contractor's address is:

ROSEDALE ROAD, MAIL STOP 38D
PRINCETON, NJ 08541

The Contractor's place of incorporation or organization is New York.

A. SCOPE OF SERVICES:

- A.1 Contractor agrees to license the Comprehensive English Language Learning Assessment (CELLA) to the State of Tennessee Department of Education, in conformance with the License Agreement, attached as Appendix A and hereby incorporated in this Contract.

In addition, Contractor will print and deliver a maximum of 24,200 Level A, B, C, and D CELLA assessments English Language Learners (ELL), grades K-12. Contractor will print and deliver a maximum of 2,420 Locator Tests for determining functional reading and writing level for CELLA test administration.

The CELLA testing materials will be shipped to three locations in Tennessee: Memphis, Nashville, and Knoxville for state-wide distribution. The exact quantities and shipping addresses for each location will be provided by the State. Shipping charges will not be invoiced separately, but are included in the price of the Tests.

Form 1 of all CELLA levels (A, B, C, and D) will be available to the 136 Local Education Agencies (LEA's) in TN for identification and assessment purposes after completion of the Spring 2005 state assessment, beginning May 15, 2005.

Form 2 of all CELLA levels (A, B, C, and D) will be used as a secure Statewide assessment in Spring 2006 and will not be sold directly to LEA's, but use of the Form 2 CELLA will be licensed to the State Department of Education.

Form 2 of all CELLA levels (A, B, C, and D) are secure, confidential tests and will not be available for purchase by LEA's.

- A.2 PERFORMANCE MEASURES: The following describes quantitative, results-based, performance measures to evaluate successful completion of activities required by this contract. These measures are agreed by both parties to demonstrate results to be achieved.

The CELLA and Locator tests will be delivered, as agreed, to three Tennessee locations determined by the Department of Education, to be received by April 10, 2005.

Contractor will make Form 1 of all CELLA levels (A, B, C, and D) available for purchase by LEA's after May 15, 2005.

Form 2 of all CELLA levels (A, B, C, and D), secure, confidential forms, will not be available for purchase by LEA's.

B. CONTRACT TERM:

- B.1. Contract Term. This Contract shall be effective for the period commencing on April 10, 2005 and ending on April 9, 2006. The State shall have no obligation for services rendered by the Contractor which are not performed within the specified period.

C. PAYMENT TERMS AND CONDITIONS:

- C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed Two Hundred Eight Thousand Five Hundred Dollars and No Cents (\$208,500.00). The Service Rates in Section C.3 shall constitute the entire compensation due the Contractor for the Service and all of the Contractor's obligations hereunder regardless of the difficulty, materials or equipment required. The Service Rates include, but are not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor.

The Contractor is not entitled to be paid the maximum liability for any period under the Contract or any extensions of the Contract for work not requested by the State. The maximum liability represents available funds for payment to the Contractor and does not guarantee payment of any such funds to the Contractor under this Contract unless the State requests work and the Contractor performs said work. In which case, the Contractor shall be paid in accordance with the Service Rates detailed in Section C.3. The State is under no obligation to request work from the Contractor in any specific dollar amounts or to request any work at all from the Contractor during any period of this Contract.

- C.2. Compensation Firm. The Service Rates and the Maximum Liability of the State under this Contract are firm for the duration of the Contract and are not subject to escalation for any reason unless amended.
- C.3. Payment Methodology. The Contractor shall be compensated based on the Service Rates herein for units of service authorized by the State in a total amount not to exceed the Contract Maximum Liability established in Section C.1. The Contractor's compensation shall be contingent upon the satisfactory completion of units of service or project milestones defined in Section A. The Contractor shall be compensated based upon the following Service Rates:

SERVICE UNIT/MILESTONE	AMOUNT
CELLA Test Form 1, Level A, B, C, D	\$8.40/Per Test
Locator Test	\$1.00/Per Test

The Contractor shall submit monthly invoices, in form and substance acceptable to the State with all of the necessary supporting documentation, prior to any payment. Such invoices shall be submitted for completed units of service or project milestones for the amount stipulated.

- C.4. Travel Compensation. The Contractor shall not be compensated or reimbursed for travel, meals, or lodging.
- C.5. Payment of Invoice. The payment of the invoice by the State shall not prejudice the State's right to object to or question any invoice or matter in relation thereto. Such payment by the State

**CONTRACT
BETWEEN THE STATE OF TENNESSEE,
DEPARTMENT OF EDUCATION
AND
MEASUREMENT INCORPORATED**

This Contract, by and between the State of Tennessee, DEPARTMENT OF EDUCATION, hereinafter referred to as the "State" and MEASUREMENT INCORPORATED, hereinafter referred to as the "Contractor," is for the provision of processing, scanning, scoring, and reporting for the new state assessment, the Comprehensive English Language Learning Assessment (CELLA), as further defined in the "SCOPE OF SERVICES."

The Contractor is A FOR-PROFIT CORPORATION. The Contractor's address is:

423 MORRIS STREET
DURHAM, NC 27701

The Contractor's place of incorporation or organization is North Carolina.

A. SCOPE OF SERVICES:

- A.1. The CONTRACTOR will provide administrative support for processing the Comprehensive English Language Learning Assessment (CELLA). There will be approximately 22,400 ELL students assessed between the dates of April 18-29. The CONTRACTOR will provide return shipping labels by April 29, 2005 for all the 136 school districts with English Language Learners to ship the answer documents directly to Durham, NC.

Trained CONTRACTOR readers will score the four sentence construction responses and the two paragraph construction response items on each answer document. Each answer document will receive scores from two separate readers. The CONTRACTOR will assign approximately 30 readers to this project and the scoring must be completed within 15 days of the end of testing.

- A.2. Administrative costs for shipping, receiving, recruiting readers, preparing and copying training materials, training, and software development will be a fixed amount.

The CONTRACTOR will provide scanning and hand scoring with two readers per answer document; Level A (max. number 10,100) scanning and hand-scoring and Levels B, C, and D (max. number 14,200) scanning and hand-scoring.

The CONTRACTOR will deliver all scanned data in an ASCII file to the state department of education.

The CONTRACTOR will provide a record layout for data collected to the State Department of Education.

The CONTRACTOR will provide shipping labels by April 29, 2005 to all of the 136 LEAs with English Language Learners (ELL) to enable districts to send the CELLA to the CONTRACTOR for processing.

B. CONTRACT TERM:

- B.1. Contract Term. This Contract shall be effective for the period commencing on April 10, 2005 and ending on June 30, 2005. The State shall have no obligation for services rendered by the Contractor which are not performed within the specified period.

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S T A R S
DOCUMENT FILE

DIRECT ACCESS:

FUNCTION: I (I, N), F1-HELP, F2-RETURN TO MENU, F4-END DIRECT ACCESS

DEPT: 331 DIV: 03 PFY: 06 FUND: 25 DOC NO: FA0516329 00 GL ACCT: 0240
PERIOD SELECTION: CMB (CMB PMB PY)

DESCRIPTION:

COST CENTER: 475 OBJ: 083 AGY OBJ: SRC: AGY SRC:
ORG CODE: PROJECT: LOCATION:
PGM CODE: GRANT: CNS AAX SUB ACCT:
VENDOR NO: V561264255 00 VENDOR NAME: MEASUREMENT INCORPORATED

DATE SEGMENT DOCUMENT AMT: 66,475.00
CREATE: 082605 ADJUSTMENTS: .00
LAST PROC: 100305 LIQUIDATIONS: 57,256.66-
CLOSE: RECEIPT/PYMT: 57,256.66
DUE: RETENTION: .00
DOCUMENT: BALANCE 9,218.34

Z06 SUCCESSFUL RECALL
Z41 ENTER INQUIRY DATA

*unpaid balance
due to less than
max Qty scanned
+scored*

This memo proposes a pricing model for the English Language Development Assessment (ELDA) tests for the 2005-2006 school year. The intent of this pricing model is to meet the goals and expectations of the Council of Chief State School Officers (Council) and the ELDA consortium Member States who have participated in its development over the past three years. Prices should reflect a reasonable return to cover the investment in ELDA's development and ongoing enhancement, while also support wide dissemination and use in the K-12 community and beyond. This is in recognition of the ELDA as a valuable and unique contribution to the assessment of English Language Learner (ELL) students (see attached brochure for a description of its features and the contents of the ELDA testing package).

As expressed in the "Consortium Agreement" entered by the Council and Member States (signed individually during the fall of 2005), member states that have paid the ELDA project fee of \$125,000 have "ownership" of the ELDA products. This includes "a perpetual royalty-free license to use, reproduce, and distribute all Deliverables, and to authorize others to do so on its behalf, for the sole purpose of assessing elementary and secondary school students within the Member State."

In addition, Member States have authorized the Council to provide "all other states or interested parties access to ELDA test and materials at costs to be determined by CCSSO in consultation with fully paid member states." The Council should provide a flexible and equitable pricing model and apply revenue as follows:

- First, to recouping unrecovered ELDA development costs
- Then, to any further ELDA enhancements or further validation that the Council may undertake in its discretion; and
- Then, to any other Council activities in support of Council member States.

The financial strategy of the consortium arrangement envisioned that members would reap substantial cost savings in the development of the ELDA by spreading these relatively fixed costs over multiple members. At the same time, the larger and more diverse pool of resources and expertise represented by the 13 member states, along with the more representative student samples in field testing, greatly enhanced the content and technical quality of the ELDA, as found in the variety of validity studies conducted by independent researchers for this project. Given these advantages of the consortium arrangement, the total investment in development over three years, which is \$1,625,000 (13 members each paying \$125,000 in total project costs), is likely far below its market value in terms of cost and quality. In fact, a conservative estimate of new test development costs for typical state-customized assessment tests is about \$1 million annually or \$3 million over a three-year new test development cycle. This estimate is validated by state education officials and testing company representatives.¹

¹ Some states publish cost information for their testing programs annually, with breakdowns by development, administration, scoring, and reporting. State laws and policy, however, vary in their consideration of such contractual information as public information or proprietary, making research into costs difficult. As requested by Congress for the passage of NCLB of 2001, the General Accounting Office conducted the most current and comprehensive survey of state assessment costs; this survey, in addition to a study done by the National Association of State Boards of Education (NASBE) in 2001, are the primary published sources for state assessment costs. See U.S. General Accounting Office, "Characteristics of Tests Will Influence Expenses; Information Sharing May Help States Realize Efficiencies," (GAO-03-389) May 2003.

Based on these development costs, the Council may offer several options to non-member States for use of the ELDA. These options cover only the license to use the ELDA and a master set of tests and ancillary materials, as listed in the attached brochure. They do not include the costs of printing, distribution, administration, scoring and reporting. As the first option, a non-Member State may purchase a license similar in scope to the license granted to Member States in the Consortium Agreement (Section **Error! Reference source not found.**) at \$150,000. This allows the state the same "perpetual, royalty-free" authority to use and distribute the ELDA within that state as member States, while acknowledging the premium granted to ELDA Member States.

The second option, which is available both to states and other third parties such as individual school districts, is to pay a royalty fee on a per test basis. For the 2005-2006 school year, this fee is \$5 per student tested. There is a 10 percent discount for student tested populations over 40,000. Payment should be made in full upon receipt of the invoice from the Council and based on expected students tested from current enrollments of ELL students.

The methodology for deriving this royalty fee includes: 1) national research on test development costs; 2) market research of similar tests; and 3) accepted standards on the use of royalties in support of intellectual property. In the 2001 study conducted by the National Association of State Boards of Education (NASBE), development costs were separated out from total assessment costs. NASBE found that developing state tests aligned to standards varied by size of the student population and range from \$25-\$125 per student. Based on its estimate that administering tests is an annual expense that usually runs from \$25-50 per student, NASBE's study shows development costs to be at least 50 percent of the total assessment costs.

In the GAO report cited in the footnote below, development is also a relatively fixed cost, in which the per student cost decreases depending on the size of the population tested. In Table 5 of this report, development costs are estimated to range from 20 to 30 percent of total assessment costs. A more detailed breakdown of these costs is provided in the attached chart from this report. According to the GAO, the calculations were made using the accepted cost scale of developing and administering (i.e. printing, distributing, scoring, reporting results, etc.) assessments.

In light of the GAO analysis showing that higher development costs are attributed to various factors such as the use of open-ended questions, customizing assessments to align with state standards, the unique features of the ELDA suggest that it would be at the top of this 20 to 30 percent range. For the purpose of emphasis of this point, these features are as follows:

- ELDA is aligned to state English as a Second Language (ESL) standards
- ELDA uses a variety of test item types (Reading and Listening: Multiple choice items only; Writing: Constructed response and multiple choice items; and Speaking: Constructed response items only)
- ELDA has vertical alignment across clusters
- ELDA has 5 levels of performance standards, with rigorous definition of Fully English Proficient (FEP) at Level 5 and realistic definition for beginners at Level 1
- ELDA is a test of 4 language skills, not of academic content - no content area prior knowledge requirements

From both of these national studies, a reasonable conclusion can therefore be drawn that development of the ELDA represents about 30 percent of the total costs for its development, administration, scoring and reporting.

While direct comparisons to other tests should be made with caution, market research of similar tests and assessment services offered by testing companies (e.g, Harcourt) shows a range in total assessment pricing of \$15 to 20 per student tested. Similarly, the total assessment costs for similar tests, as published by states, shows a wide range of per student costs, as high as \$30, depending on the size of the population. For example, the Maryland The average total assessment costs is probably about \$16 per student tested, independent of population size. Again, adjusting for the added features of the ELDA, the average total costs can be assumed to be about \$20 per student tested.

Based on accepted standards and practices in the use of royalties to recoup and protect the investment in intellectual property, royalties can range between 10 to 30 percent of the total price. This range depends primarily on original development costs, but can also reflect considerations such as ongoing enhancements to the intellectual property. This range is considered reasonable and appropriate by state assessment officials and testing company representatives. Assuming a total assessment price of \$20 per student tested (this includes development, administration, scoring, and reporting), a royalty of \$5 per test therefore represents 25 percent of total costs.

The Council will require an agreement with standard provisions such as maintenance of test security, confidentiality, protection of intellectual property rights, general terms and conditions, and adherence to educational testing standards (i.e., Standards for Educational and Psychological Testing).

**ETS Proposed Pricing for *English Language Learning Assessment*
(CELLA, formerly known as EPAS)**

Materials/Services without Scoring	Price per student
<ul style="list-style-type: none"> • Test books (one per student) • Answer sheets (one per student) • Directions for Administration • Speaking Scoring Guides • Training CD for speaking portion of the test • Writing Scoring Guides • Listening CD with recorded scripts • Model for score reports 	\$10.50 list \$8.40 discounted
Materials/Services with Scoring	Price per student
<ul style="list-style-type: none"> • All of the above plus the following • Machine scoring for MC items • Scoring of CR writing items • Four basic score reports (student, school, district, and state) 	\$16.95 list \$13.56 discounted
Additional Products/Services	Price
<ul style="list-style-type: none"> • Training (on test design, administration and/or scoring) • Technical Manual • State-specific technical data analyses • State-specific standard setting • Additional ancillary materials (locator test) • Program management • Pre-Id • Customization of materials • District data resolution • Shipping/handling 	To be determined based on customer's needs

A Note on Additional Products/Services

In addition to offering a full-service, cost-effective ELL testing program, ETS, as the developers of CELLA, is uniquely positioned to offer several of the additional products and services mentioned above.

CELLA-specific Training

Drawing from our knowledge of the product and the field test experience, ETS staff can provide training workshops and presentations related to test administration, scoring, and interpreting data.

Locator Test

The ETS locator test is designed to help determine a student's functional level. This allows customers the flexibility of assessing students based on either their grade level or their functional level. Students will take the Listening/Speaking Test based on his or her grade level, but the locator test can be used to determine which test level should be administered for the Writing/Reading Test. This helps solve the problem of how to assess students in upper grades who are newly arrived in this country and are functioning at a low level.

Standard Setting and Customization

States may want to do some additional customization to the existing CELLA offering in order to best meet their specific needs. As the developer of this assessment, we are in the best position to address the content and technical aspects of the CELLA product. We will work with states to incorporate CELLA into their accountability systems and can provide the following services: development of additional forms of CELLA and the implementation of additional research studies (e.g., linking studies, validation studies, standard setting, development of value added models, etc).

From: "Fouratt, Sharron" <sfouratt@ETS.ORG>
To: "Carol Irwin" <Carol.Irwin@state.tn.us>
Date: 12/21/2005 2:58:57 PM
Subject: RE: CELLA Scoring & Reporting

Carol,

Per your request for the estimated prices for the TN Standard Setting, I have listed the following:

10 ETS Staff (1 lead, 2 admin, 4 facilitators, 1 content specialist, 2 stat/data entry) travel expenses and per diem expenses for a 2 day workshop \$15,023

ETS Labor (Prepare materials, conduct meeting, and prepare post meeting report) \$86,544

Accountability Works Participation
\$ 2,400

TOTAL Estimated Price
\$103,967

This estimate is based on our understanding of and agreement to the amendment of the current contract with TN.

If you have any questions or need anything, please do not hesitate to call me. I will be in the office December 22, 27, 29 and 30.

I'm sure we'll need to pick up the pace right after the first of the new year. For now, I hope you have a very happy, healthy holiday with your family and will be looking forward to talking with you soon.

Sharron

From: Carol Irwin [mailto:Carol.Irwin@state.tn.us]
Sent: Friday, December 16, 2005 3:00 PM
To: Prickett, Kim
Cc: Bailey, Diane; Fouratt, Sharron
Subject: Re: CELLA Scoring & Reporting

Thanks, Kim. Is an estimate for costs available for the standard setting? I received the request for that information after we spoke. Sharron and I had spoken regarding this and I've put \$120,000 into the amendment but I have no documentation to support that estimate. I have submitted a state process to pay for in state participants' travel, per diem, and the caterers, so all I need are the ETS costs. Thanks for your prompt reply. Carol

Carol Irwin
Title III Program Director
5th Floor, Andrew Johnson Tower
710 James Robertson Parkway
Nashville, TN 37243-0379
(615) 741-3262
fax (615) 532-8536
Carol.Irwin@state.tn.us

>>> "Prickett, Kim" <kprickett@ets.org> 12/16/05 10:56 AM >>>

Carol -

Per your request, ETS has the capability to scan, score and report the CELLA assessment. If you need any further information regarding this, please let me know.

Kim

Kim Prickett
ESE Program Management
Educational Testing Service
kprickett@ets.org
609-683-2148
609-683-2060 - Fax

CC: "Prickett, Kim" <kprickett@ETS.ORG>

ACCESS for ELLs™ FAQ - Cost

[<< FAQ Index](#)

8) How much will the ACCESS for ELLs™ cost?

At present, the ACCESS for ELLs™ costs \$20 per student for Consortium member states.

9) Who pays for the ACCESS for ELLs™?

Currently, most Consortium states have determined that the ACCESS for ELLs™ will be purchased at the state level, primarily using federal Title III and/or Title VI money; however, a few states have determined that local districts will fund the assessment. This stipulation applies to public schools; private schools may purchase the ACCESS for ELLs™ directly from the WIDA Consortium.

10) What does the cost of the ACCESS for ELLs™ include?

The cost of the ACCESS for ELLs™ includes:

- printing, distributing, scoring, and reporting of the secure test;



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- password to a non-secure screener test for use in initial identification and placement of English language learners;
- ongoing test maintenance, including the annual refreshment of items;
- availability to professional development opportunities, especially those related to the WIDA English language proficiency standards and the ACCESS for ELLs™
- on-line workshops that lead to certification for administration
- validation and related research

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DON SUNDQUIST
GOVERNOR

STATE OF TENNESSEE
DEPARTMENT OF EDUCATION
6TH FLOOR, ANDREW JOHNSON TOWER
710 JAMES ROBERTSON PARKWAY
NASHVILLE, TN 37243-0375

FAYE P. TAYLOR
COMMISSIONER

September 13, 2002

Charles Zogby
Secretary of Education, Pennsylvania
c/o Theodor Rebarber, President
AccountabilityWorks
1225 19th Street, NW
Suite 400
Washington, DC 20036

Dear Mr. Zogby,

On behalf of Tennessee, I am pleased to support the grant application of the English Proficiency for All Students (EPAS) Consortium, led by Pennsylvania, in partnership with AccountabilityWorks and Educational Testing Service (ETS), to develop an English proficiency test. Should the grant be awarded to Pennsylvania, on behalf of the EPAS Consortium and other partner organizations, Tennessee will participate as a member of the Consortium.

This participation will include:

- Entering into a memorandum of understanding with the other member states regarding the activities and other features of the EPAS Consortium. --Assigning a Tennessee state contact to the EPAS consortium, including providing all appropriate contact information.
- Sending representatives of Tennessee to up to four (4) on-site project meetings over the course of the project, including an initial organizational and planning meeting and up to three additional meetings, at mutually agreeable times and dates. It is understood that travel and other reasonable costs of attending these meetings for up to two (2) individuals will be covered under this grant, but that Tennessee staff time, phone, and other minor expenses will not be covered under this grant.
- Providing comments and input regarding the work product at key intervals in the development of that work product, including the development of content benchmarks which define the content to be assessed, and drafts of the test instrument itself.

Should the final product meet all of Tennessee's goals and needs, as the state will judge them at the time of completion, Tennessee will be eager to use the English proficiency test for the benefit of our English language learners and to accomplish other policy goals.

Thank you for this opportunity to participate in the English Proficiency for All Students (EPAS) consortium. We are eager to begin working with you on this important project.

Sincerely,

Faye P. Taylor

FPT:bb

Cc: Benjamin Brown,
Executive Director, Evaluation and Assessment

COMMISSIONER'S SIGNATURE REQUEST FORM

Division of Curriculum and Instruction

To: Charles Zogby

Attention: Faye P. Taylor

Originator: Ben Brown

Date: September 13, 2002

Subject: ☐ DEA2

☐ DEA4/Honorarium

☐ DEA5/Grant Payment

☐ Out-of-State Travel Authority

☒ Letter for Commissioner's Signature

☐ Request for Publication Authorization

Approved By:

Ben Brown, Executive Director

Approved By:

Claudette Williams
Claudette Williams, Acting Assistant Commissioner

Comments:

9/13/02

Ben
faxed
the
attached



Making a difference in education

480 Atlas Street
Brea, California 92821
(714) 990-4332 (800) 321-4332
fax: (714) 255-9828

www.ballard-tighe.com

January 20, 2006

Ms. Carol Irwin
Title III Program Director
5th Floor, Andrew Johnson Tower
710 James Robertson Parkway
Nashville, TN 37243-0379

Dear Carol,

Thank you so much for expressing interest in our new NCLB compliant test (IPT) for your 2006 annual assessment. As requested, following is a cost estimate for materials, scoring/reporting, the standard setting workshop, and training. As you would suspect, with the short timeframe and minimal detail information as to Tennessee's specific requirements, we have provided ranges of cost for materials and scoring/reporting. More detailed information will be available as we progress through the process.

Training is provided in two formats to enable your evaluation of alternatives.

- Train-the-Trainer Model – assumes training of individuals who will return to their districts and train their test administrators. The subsequent training is enhanced through utilization of the Ballard & Tighe on-line inservice training program. The estimate is based upon three separate training sessions, one each in West, Middle, and East Tennessee, one week time span with one B&T trainer involved, and 50 participants in each session (150 total). It also assumes Tennessee will provide stipends, travel, lodging, meeting space, and refreshments for the training sessions.
- Train All Test Administrators Model – estimate is based upon two B & T trainers, two week time span, 12 sessions (four in each of West, Middle, and East Tennessee, two per day), and 600 total participants. It also assumes Tennessee will provide stipends, travel, lodging, meeting space, and refreshments for the training sessions.

The Standard Setting Workshop – is based upon a one week time span at a location in Tennessee with participation of 20 Tennessee educators and provision of sufficient Ballard & Tighe personnel to ensure a successful and efficient process. Again, it is assumed Tennessee will provide stipends, travel, lodging, meeting space, and refreshments for the training sessions.

Ms. Carol Irwin
January 20, 2006
Page 2

Pricing Estimates

Material costs based upon 24,000 students	\$11-\$14/student	\$264,000	\$336,000
Scoring and Reporting	\$14-\$17/student	336,000	408,000
Standard Setting Workshop		37,000	37,000
Training – Train-the-Trainer Model		<u>6,000</u>	<u>6,000</u>
Total		<u>\$643,000</u>	<u>\$787,000</u>

Material costs based upon 24,000 students	\$11-\$14/student	\$264,000	\$336,000
Scoring and Reporting	\$14-\$17/student	336,000	408,000
Standard Setting Workshop		37,000	37,000
Training – Train All Administrators Model		<u>17,000</u>	<u>17,000</u>
Total		<u>\$654,000</u>	<u>\$798,000</u>

Please feel free to contact me for any questions you may have regarding the above estimate.

Respectfully,

Patricia Castillo Linn
Vice President
Business Development